

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

APRIL 4, 2007

The **Regular Meeting** of the Council of Commissioners was called to order, Wednesday, **April 4, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

10 present, 2 absent. Commissioners Coleman and Granger were excused.

PRAYER

Commissioner O'Leary led the commissioners in prayer.

APPROVAL OF THE MINUTES OF THE MARCH 21, 2007 REGULAR MEETING AND THE MARCH 28, 2007 SPECIAL MEETING

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Minutes of the March 21, 2007 Regular Meeting and the March 28, 2007 Special Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

None

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reminded the commissioners that this Saturday is K Day. There will be a cleanup effort in the Butte High area. It will start at 10AM.

He congratulated the commissioners and local government in moving forward with the Historic Preservation Ordinance. Getting off probation goes a long ways to attracting these types of events such as the Folk Festival to Butte.

He thanked Commissioner Fay, who worked as a cook for the YMCA breakfast.

He reminded everyone that the position descriptions for the Fox Lawson study are due.

He informed the council that they have been meeting on a weekly basis to address capital improvements. We are looking at not only what are the capital needs but what are the funding sources. We have about 14 capital improvement items that are on our list. They meet on Tuesdays at 3:30 in the Chief Executive's Office and anyone who is interested is welcome.

His management team has made its second review of the Charter language that was voted on by the public. Dan Dennehy is the lead on that and he is working with the County Attorney's office.

He congratulated Bill Melvin whose daughter who has been appointed to the Board of Regents as a student representative.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT ON THE PASSAGE OF RESOLUTION OF INTENT TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 1027. (Petition No. 07-2 being held in Committee of the Whole). Proof of publication was noted and placed on file.

Pat Riordan, SID Administrator, said this public hearing is for a new lighting district in the Lakeshore Addition No. 8, which is near the intersection of Blacktail Lane and Bantry Way near Holly Lane out west of the speed skating rink. They are proposing 11 contemporary post top fixtures, 100 watt high pressure sodium vapor lights mounted on 16' fiberglass poles, underground conduit and wiring. They have received no protests and there was 100% participation on the petition.

Chief Executive Babb opened the public hearing at 7:33 PM and called for proponents. On the third and final call, there being none he then called for opponents. Again, there was no response so the public hearing was closed at 7:34 PM.

SECTION II

INVITATION FOR BIDS

SEALED BIDS FOR DEMOLITION, REMOVAL AND DISPOSAL OF DETERIORATED SIDEWALKS AND FURNISHING, PLACING AND FINISHING OF NEW CONCRETE SIDEWALKS AT VARIOUS LOCATIONS WITHIN BUTTE-SILVER BOW. (Communication 07-202) Proof of publication was noted and placed on file.

John VanDaveer, Public Works Director, opened the following bids:

Becker Landscaping and Design Inc.	\$142,362.75
White Resources	\$149,000.00

Mr. VanDaveer recommends that the bids be sent to the Public Works Department for review and report back.

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to send the bids to the Public Works Department for review and report back.

SECTION III

CONSENT AGENDA

- A.
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. PERSONNEL COMMITTEE MEETING REPORT
 - 6. RULES COMMITTEE MEETING REPORT

B. PETITIONS

- 1. 07-3 John Harrington, on behalf of Thomas J. Hardesty, to close and vacate Eagle Street east of Hancock Street and the alleys adjacent to Blocks 15 & 20 in the Northern Pacific Addition.
Recommendation to Public Works Committee.

C. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner Sorich made a “friendly amendment” to Finance and Budget Committee Report. Communications No. 07-156, 07-166, 07-267, 07-170, 07-175, and 07-179 should read approved and placed on file. Commissioner Mulcahy segregated Section C, Item 27, Communication No. 07-212. Commissioner O’Leary made a “friendly amendment to Item 17 to add to the recommendation to place that Communication on File, Commissioner Foley segregated under Section C, No. 13, 16 and 34. Chief Executive Babb made a “friendly amendment” Communication No. 07-215. The appointment for Brian Holland should be for three years.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda,

Section A, Items 1 through 6, Section B, and Section C I through 34 excepting those that have been segregated.

SEGREGATIONS

Communication No. 07-198

Jeffrey L. Miller, Direction of Fire Services, requesting authorization for Chief Executive to enter into contract extension with Hinick Associates.

Commissioner Foley had questions about what the contract is and what the cost involved is.

Commissioner Foley moved for Communication No. 07-198 to be held in Committee of the Whole. The motion was seconded by Commissioner Sheehy and passed with a unanimous verbal vote of 8 yeas, 2 nays and 2 absent. O’Leary and Sheehy voting nay.

Communication No. 07-201

Rob Macioroski, Director Land Records, requesting acceptance of donation of Melrose Cemetery to Butte-Silver Bow and request the County Attorney to prepare the resolution.

Commissioner Foley questioned whether we should take on another cemetery. Commissioner Lee had some concerns too.

It was moved by Commissioner Foley, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer Communication No. 07-201 to the Committee of the Whole.

Communication No. 07-212

Jeff Amerman, Finance and Budget Director, requesting authorization for Chief Executive to sign an agreement with MDG Consulting or Professional Services modification of the Butte-Silver Bow budget document.

Commissioner Mulcahy said he felt there should be some discussion about the funding source. He feels we should stay with the current system. Jeff Amerman explained this has nothing to do with our current reporting system. This has to do with the distinguished budget presentation award by the GFOA. Does not involve any of our software, any of our systems, any of the way that we do things. Commissioner Sheehy asked if this could be done internally. Mr. Amerman explained we don’t have the staffing or the expertise. Commissioner Frasz says he wants to know more too and would like to put a hold on it for a while. Commissioner Lee asked if Linda Sajor-Joyce could put together the program. Mr. Amerman said there is no way. The budget process was developed approximately 20

years ago by Gary Rowe. It has not been changed substantially in the last 20 years. The things that are required are far beyond what a computer person would be able to do regardless of the computer person's skills. It's outside her realm.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer Communication No. 07-212 to the Committee of the Whole.

Communication No. 07-219

Jeff Amerman, Finance and Budget Director, requesting approval of line item budget transfer.

Commissioner Foley wanted to know where the money was coming. The first half it will be coming from the Employee Associated Costs. This will move budgetary authority from lines 110 and 140 into 350 which will give budgetary for the first portion of the study (Fox Lawson) ending June 30. The second portion will be will be in the Chief Executive's preliminary budget recommendation to council.

It was moved by Commissioner Foley, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to refer Communication No. 07-219 to the Finance and Budget Committee.

SECTION IV COMMUNICATIONS TO BE READ AND ACTED UPON

1. 07-186 John P. Walsh, Sheriff, requesting confirmation of appointment of William St. Pierre as a permanent member of the Butte-Silver Bow Law Enforcement Department

Sheriff Walsh came to the microphone and introduced William St. Pierre to the Council.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request for confirmation of appointment of William St. Pierre as a permanent member of the Butte-Silver Bow Law Enforcement Department.

SECTION V

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

**1. COUNCIL BILL NO. 07-5
ORDINANCE NO. 07-5**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 7 AND 53 AND CHAPTERS 2.48 AND 17.54 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “BOARD OF ADJUSTMENT”; AMENDING SECTIONS 2.48.090 AND 17.54.090, b-SB MC; DELETING REFERENCE TO APPEAL TO THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 76-2-327, MCA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 07-21

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-406, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION TRAFFIC SAFETY BUREAU TO PURCHASE THREE VIDEO VEHICLE CAMERAS AND FIVE PORTABLE BREATH ANALYZERS TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-22

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW TREASURER TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VI

ORDINANCES AND RESOLUTIONS - SECOND READING

1. COUNCIL BILL NO. 05-11 ORDINANCE NO. 05-11

AN ORDINANCE CREATING A NEW CHAPTER WITHIN THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) TO BE ENTITLED "SECONDHAND GOODS" TO BE NUMBERED CHAPTER 5.66, B-SB MC; ESTABLISHING REGULATIONS FOR ALL SECONDHAND DEALERS INCLUDING SECONDHAND STORES, PAWNBROKERS, COIN DEALERS, AND DEALERS IN PRECIOUS AND SEMI-PRECIOUS METALS OR STONES; ESTABLISHING REPORT REQUIREMENTS; SETTING LICENSING FEES; ESTABLISHING PENALTIES FOR VIOLATION; REPEALING CHAPTERS 5.36 AND 5.44, B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Bill No. 05-11, Ordinance No. 05-11 on second reading and passed having been deemed fully read at length.

2. COUNCIL BILL NO. 07-4 ORDINANCE NO. 07-4

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 195, 266, 398 AND 04-5 AND TITLE 15 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "BUILDING AND CONSTRUCTION"; AMENDING CHAPTER 15.04 ENTITLED "BUILDING CODE"; AMENDING CHAPTER 15.07 ENTITLED "INTERNATIONAL EXISTING BUILDING CODE"; AMENDING CHAPTER 15.10 ENTITLED "FIRE CODE"; AMENDING CHAPTER 15.14 ENTITLED "MECHANICAL CODE"; AMENDING CHAPTER 15.15 ENTITLED "INTERNATIONAL FUEL CODE"; AMENDING CHAPTER 15.16 ENTITLED "PLUMBING CODE"; AMENDING SECTION 15.04.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE AND APPROPRIATE ARM CHANGES; AMENDING SECTION 15.04.075 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, AMENDING SECTION 15.07.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE, AMENDING SECTION 15.10.010 AND ADOPTING THE 2003 EDITION OF THE NFPA 1 UNIFORM FIRE CODE; AMENDING SECTION 15.14.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE, AMENDING SECTION 15.15.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FUEL CODE AND

AMENDING SECTION 15.16.010 AND ADOPTING THE 2006 EDITION OF THE UNIFORM PLUMBING CODE AND DELETING APPENDIX H AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Bill No. 07-4, Ordinance No. 07-4 on second reading and passed having been deemed fully read at length.

SECTION VII

RESOLUTIONS FOR FINAL READING

1. COUNCIL RESOLUTION NO. 07-16

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF TAX DEEDED REAL PROPERTY OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 07-16 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 07-18

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT FROM THE STATE OF MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO BE EXPENDED IN THE BUTTE-SILVER BOW HEALTH DEPARTMENT FUND FOR FAMILY PLANNING TITLE X SERVICES, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 07-18 on final reading and passed having been deemed fully read at length.

**SECTION VIII COUNCIL RESOLUTIONS AND ORDINANCES –
SUSPENSION OF THE RULES FOR FINAL PASSAGE**

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to suspend the rules for the purpose of passing Council Resolutions No. 07-23 and 07-24 by waiving subsection 7 of Rule XXXVI, of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 07-23

A RESOLUTION AUTHORIZING PARTICIPATION IN THE BOARD OF INVESTMENTS OF THE STATE OF MONTANA ANNUAL ADJUSTABLE RATE TENDER OPTION MUNICIPAL FINANCE CONSOLIDATION ACT BONDS (INTERCAP REVOLVING PROGRAM), APPROVING THE FORM AND TERMS OF THE LOAN AGREEMENT AND AUTHORIZING THE EXECUTIVE AND DELIVERY OF DOCUMENTS RELATED THERETO AND PROVIDING AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 07-23 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 07-24

A RESOLUTION AUTHORIZING PARTICIPATION IN THE BOARD OF INVESTMENTS OF THE STATE OF MONTANA ANNUAL ADJUSTABLE RATE TENDER OPTION MUNICIPAL FINANCE CONSOLIDATION ACT BONDS (INTERCAP REVOLVING PROGRAM), APPROVING THE FORM AND TERMS OF THE LOAN AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 07-24 on final reading and passed having been deemed fully read at length.

ADJOURN

Chief Executive Babb called attention to the meeting of the TIFID Board on the Calendar of Other Meetings and Events for April 5 at noon. He said that meeting has not yet been set and they will notify us as to the date when they will meet.

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:45 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER